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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,608	07/11/2003	Dean L. Kamen	1062/D67	2907
2101	7590	02/02/2005	EXAMINER	
BROMBERG & SUNSTEIN LLP 125 SUMMER STREET BOSTON, MA 02110-1618			LUBY, MATTHEW D	
			ART UNIT	PAPER NUMBER

3611

DATE MAILED: 02/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

 Office Action Summary	Application No.	Applicant(s)	
	10/617,608	KAMEN ET AL.	
	Examiner	Art Unit	
	Matt Luby	3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 1-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-28 and 31-33 is/are rejected.
- 7) ☒ Claim(s) 29 and 30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/20/04 & 10/25/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 1-24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10/25/04.

Applicant's election without traverse of Group II, claims 25-33 in the reply filed on 10/25/04 is acknowledged.

Double Patenting

2. Claims 25-33 of this application conflict with claim 24-32 of Application No. 10/617,082 37 C FR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 25-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Jorgensen et al. (U.S. Patent No. 6,003,624).

Jorgensen et al. disclose a transporter comprising a support platform (20) ; a plurality of ground contacting elements including two laterally disposed wheels rotatable around an axis (14); a pivot element (16) capable of tilting in the fore-aft plane and pivotally coupled to the axis (compare Figures 1-5; 16 is pivotably coupled at 18); wherein the pivot element is flexibly coupled to the support platform (through a linkage as shown in Figure 4); a user interface (36) for causing the tilt of the pivot element (col. 5, lines 17-28); a sensor module for generating a signal indicative of the tilt of the pivot element (col. 5, lines 17-28; col. 2, lines 34-40); a motorized drive arrangement (32, 34) and a controller commanding the motorized drive based on the tilt (col. 5, lines 17-28).

5. Claims 31-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Kropf (U.S. Patent No. 5,135,063).

Kropf discloses a method of controlling a transporter comprising all elements as claimed, including causing a tilt of a pivot element having a handlebar (28), and commanding the motorized drive arrangement based on at least the tilt, the method further comprising "flexibly coupling the pivot element to the support platform as broadly recited and to the extent that this structural limitation materially affects the claimed method for controlling a transporter.

6. Claims 31-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Nagamichi (U.S. Patent No. 5,657,828).

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Nagamichi discloses a method of controlling a transporter comprising all elements as claimed, including causing a tilt of a pivot element having a handlebar (107), and commanding the motorized drive arrangement based on at least the tilt, the method further comprising "flexibly" coupling the pivot element to the support platform as broadly recited and to the extent that this structural limitation materially affects the claimed method for controlling a transporter.

Allowable Subject Matter

7. Claims 29 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matt Luby whose telephone number is (703) 305-0441. The examiner can normally be reached on Monday-Friday, 9:30 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Matt Luby
Examiner
Art Unit 3611

A handwritten signature in black ink, appearing to read "Matt Luby", written in a cursive style.

M.L.
January 21, 2005